

By: Dutton

H.B. No. 2939

A BILL TO BE ENTITLED

AN ACT

relating to contracts with private entities to operate state hospitals for persons with mental illness.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.050 to read as follows:

Sec. 533.050. PRIVATIZATION OF STATE MENTAL HOSPITAL; CONSTRUCTION AND OPERATION OF REPLACEMENT FACILITY. (a) The department shall contract with a private service provider to operate a state mental hospital if:

(1) the executive commissioner determines that the private service provider will operate the hospital at a cost that is at least five percent less than the cost to the department to operate the hospital;

(2) the executive commissioner approves the contract;

(3) the hospital, when operated under the contract, treats a population with essentially the same characteristics and acuity levels as the population treated at the hospital when operated by the department; and

(4) the private service provider is required under the contract to operate the hospital at a quality level at least equal to the quality level achieved by the department when the department operated the hospital, as measured by the hospital's most recent applicable accreditation determination from The Joint Commission

1 on health care organization accreditation.

2 (b) The department shall report to the executive
3 commissioner regarding whether the department has received a
4 proposal by a private service provider to operate a state mental
5 hospital. The report must include an evaluation of the private
6 service provider's qualifications, experience, and financial
7 strength, a determination of whether the provider can operate the
8 hospital under the same standard of care as the department, and an
9 analysis of the projected savings under a proposed contract with
10 the provider. The savings analysis must include all department
11 costs to operate the hospital, including costs, such as employee
12 benefits, that are not appropriated to the department.

13 (c) A contract entered into under Subsection (a) must:

14 (1) provide that the department retains the right to
15 assume management of the hospital if contract terms are not met or
16 if the five percent cost savings requirement is not met; and

17 (2) establish specific goals for the provider to meet:

18 (A) in significantly reducing the use of
19 restraints and the seclusion of patients;

20 (B) in significantly reducing patient waiting
21 lists;

22 (C) in significantly reducing total length of
23 stay for patients, measured annually;

24 (D) in increasing access to mental health
25 inpatient services; and

26 (E) in reducing recidivism.

27 (d) The department shall monitor care of patients at a state

1 hospital operated by a contract authorized by this section. The
2 department shall develop and maintain information on activities
3 carried out under the contract without violating privacy or
4 confidentiality rules. The information developed under this
5 subsection must include:

6 (1) the number of incidents in which patients were
7 restrained or secluded;

8 (2) the number of incidents of serious assaults in the
9 hospital setting;

10 (3) the number of occurrences in the hospital setting
11 involving contacts with law enforcement personnel;

12 (4) individual and average lengths of stay, including
13 computation of lengths of stay according to the number of days a
14 patient is in the facility during each calendar year, regardless of
15 discharge and readmission; and

16 (5) client outcomes.

17 (e) The department may not enter into a contract under this
18 section with a private service provider unless the provider has a
19 documented and verified record of success in:

20 (1) providing mental health services over a five-year
21 period; and

22 (2) managing an inpatient mental health facility with
23 a population of at least 250 patients.

24 (f) If the department contracts with a private service
25 provider to operate a state mental hospital under Subsection (a) or
26 with a person to finance, design, construct, and operate a state
27 mental hospital under Subsection (h), the department, the

1 Governor's Office of Budget and Planning, and the Legislative
2 Budget Board shall identify sources of funding that must be
3 transferred to the department to fund the contract.

4 (g) The department may renew a contract under this section.
5 The conditions provided by this section apply to the renewal of the
6 contract.

7 (h) The department shall enter into an agreement with a
8 private entity to finance, design, construct, and operate a new
9 facility to replace one or more state hospitals. The term of the
10 agreement may not exceed 25 years. The agreement must provide for
11 the department to acquire the facility under a lease-purchase
12 agreement with a term not to exceed 25 years and authorize the
13 private entity to issue certificates of participation or other
14 appropriate securities to finance the construction of the facility.
15 The portions of the agreement that govern the provision of services
16 must meet the requirements for a contract entered into under
17 Subsection (a). Operational savings used to pay debt service
18 payments for financing a new facility shall be counted in
19 calculating whether the proposal meets the five percent savings
20 required by Subsection (a)(1). The department shall report to the
21 executive commissioner regarding whether the department has
22 received a proposal from a person to finance, design, construct,
23 and operate a facility under this subsection. The report must
24 include an evaluation of the proposal, including an evaluation of
25 the person's qualifications, experience, and financial strength, a
26 determination of whether the person can operate the new facility
27 under the same standard of care as the department, and an analysis

1 of the projected savings under the proposal.

2 (i) The department and each private entity that contracts
3 with the department under this section shall provide to the
4 legislature a report on the progress of activities under the
5 contract and performance of services under the contract. The
6 report must be provided to the legislature not later than November 1
7 of each even-numbered year.

8 SECTION 2. Not later than October 13, 2017, the Department
9 of State Health Services shall issue a request for proposals for a
10 private service provider to contract with the department to
11 finance, design, construct, and operate a state hospital as
12 authorized by Section 533.050(h), Health and Safety Code, as added
13 by this Act.

14 SECTION 3. This Act takes effect September 1, 2017.